IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Lal Chand Vs. State of Rajasthan.

S.B.CR.MISC. PETITION NO.1482/2006

DATE OF ORDER :: December 08, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.R.S.Choudhary, for the petitioner.
Mr.Ashok Upadhyaya, P.P.

BY THE COURT:

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned dt. 18.8.2006 passed by the Sessions Judge, Churu (for short 'the appellate court' hereinafter), in Cr.Appeal No.16/2005 as also the orders dt. 2.3.2005 and 22.9.2004 passed by the District Collector, Churu. I have also gone through the judgment and order passed by the Chief Judicial Magistrate, Churu (for short 'the trial court' hereinafter) in Cr.Case No.243/2003 dt. 7.5.2005 by which the petitioner, who was facing trial for the offence under section 3/7 of the Essential Commodities Act (for short

`the E.C.Act'), was acquitted.

It is contended by the learned counsel for the petitioner that the petitioner's jeep bearing registration No.HR-20E-5460 was seized by the police while it was alleged to have been carrying the kerosene for the offence under section 3/7 of the E.C.Act. During the pendency of the proceedings, the petitioner moved before the Distt. Collector seeking release of the vehicle. The Distt. Collector released the vehicle in favour of the petitioner directing the petitioner to furnish the bank guarantee of Rs.1,50,000/-. The petitioner furnished the bank guarantee of Rs.1,50,000/- before the District Collector, Churu. However, after acquittal in the criminal case, the petitioner moved the District Collector for release the bank guarantee by way of a review application. The review application came to be dismissed by the Distt. Collector, against which the petitioner preferred an appeal before the appellate court. The appellate court only on the ground that there is no provision for review of order of the Collector, dismissed the appeal.

It is contended by the learned counsel for the petitioner that since the petitioner has been acquitted by the trial court vide order dt. 7.5.2005 and there being no other proceeding pending against the petitioner either before the trial court or before the Collector for confiscation of the vehicle, the Collector

fell in error in declining to release the bank guarantee.

Having regard to the facts and circumstances of the case and the fact that the petitioner has been acquitted, which is evident from the certified copy of the judgment and order dt. 7.5.2005 against which no appeal has been preferred, in my view, no useful purpose would be served to detain the bank guarantee without there being any proceeding against the petitioner either before the trial court or before the Colletor and, therefore, the petition deserves to be allowed.

In the result, the criminal misc. petition is allowed. Order passed by the Distt. Collector, Churu declining to release the bank guarantee as also the order dt. 18.8.2006 passed by the appellate court are set aside and the bank guarantee furnished by the petitioner before the Distt. Collector, Churu shall be released.

[H.R.PANWAR],J.

m.asif/-